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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,190	03/01/2001	Andrew George Silver	U 013288-1	6267

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26 WEST 61ST STREET  
NEW YORK, NY 10023

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/786,190

Applicant(s)

SILVER, ANDREW GEORGE

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-33 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-33 and 35-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Nov 3, 2003 has been entered.

**Claim Rejections - 35 USC 103**

2. The appropriate citation of 35 U.S.C. 103 relied upon herein may be found in the previous office action.

3. Claims 22-33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. (US 3,771,807, cited previously) in view of Dulski (US 2,883,205, cited previously). Porsche et al. teach a ski bike including a seat (3) a steering means (1, 2, 4) including an upper pair of handlebars (30) which may accommodate a tow assembly of greater width than the handlebars and a forward ski (5) pivotally connected to the frame by a single fork member, a frame including first and second portions (10, 10'), both of which support the seat, connected to a third portion (11, 12) which is parallel to a rear ski (8), the rear ski being connected to the frame by pivotal connections (6, 7) and a suspension means (9), which allow pivoting of the rear ski at those pivotal locations, the front and rear skis having the same width (figure 2), the front ends of the first and second frames being connected to the steering headset (2), the rear ends being connected to an upwardly oriented portion (12) of the third frame portion. The reference to Porsche et al. fails to teach a footrest extending from the frame on either side of the frame, constituting a pair of foot engaging portions. Dulski teaches a ski-bike having a frame supplied with a footrest (42) located between the seat and rear ski, having left and right foot supporting portions extending on either side of the frame (e.g., 13, 14). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a footrest as taught by Dulski on the frame of the bike

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taught by Porsche et al., between the seat and rear ski, for the purpose of allowing a user's feet to be supported when coasting.

As regards claim 27, while the reference of Porsche et al. as modified by Dulski fails to teach the pivotal connections (6, 7) being located adjacent the ends of the third frame portion (e.g., the ends of 11), it would not have been considered to be beyond the skill of the ordinary practitioner to adjust the locations of the pivots, for example for the purpose of adjusting the degree and characteristics of displacement of the rear ski.

As regards claim 30, it is old and well known to duplicate a part in order to provide enhanced operation of the part, and as such, It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the fork portion taught by Porsche et al., as modified by Dulski, providing a pair of fork portions, for the purpose of providing a more secure connection between the steering means and the front ski.

As regards claim 37, to provide an abrasive foot accommodating portion on a footrest for the purpose of enhancing traction is old and well known, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an abrasive surface to the top portions of the footrest taught by the modifying reference of Dulski for the purpose of improving traction and providing an improved gripping surface for the user.

4. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. in view of Dulski and Laycraft (US 4,097,055, cited previously). The references of Porsche et al. and Dulski are discussed above, and fail to teach the attachment of the steering means and forward ski by a suspension member which damps pivotal motion. Laycraft teaches a snow bike having a front ski (23) connected to a front fork (20) with a suspension mechanism comprising a pivotal connection (at 22) and a damper (24, 25, 26). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the connection between the front fork and front ski of the bike of Porsche et al. as modified by Dulski with a damping suspension mechanism as taught by Laycraft for the purpose of reducing vibrations transmitted to the user, facilitating a smoother ride.

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5. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porsche et al. in view of Dulski and Muller et al. (US 4,305,603, cited previously). The references of Porsche et al. and Dulski are discussed above, and fail to teach the rear ski as having a rear portion that is wider than the remainder of the ski, which has a substantially constant width. Muller et al. teach a gliding board having a forward section with a substantially constant width, and a wider rear section (6). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the rear ski of the bike of Porsche et al. as modified by Dulski with a widened section, as taught by Muller et al., for the purpose of adjusting the gliding characteristic of the bike.

#### **Response to comments**

6. Applicant's comments have been carefully considered. As regards the previous rejection under 35 USC 112, concerning the recitation of the foot rest (claim 22, paragraph (g) and claim 23), the examiner agrees with applicant's interpretation and analysis, and the rejection is hereby withdrawn. As regards the reference to Porsche and the material added to claim 22, the rear ski is allowed to pivot with respect to the frame at the spaced locations of attachment, to the degree claimed. Note, as an example, when the front of the rear ski comes into contact with a protruded obstacle, the front portion of the ski will raise up, with the result that the acute angle of the front pivotal connecting bar will decrease (i.e., the rearward portion of element 6 will approach the lower side of the frame) and the rear position of the ski will pivot in a clockwise direction (about connections 7, 9) until such time as the obstacle is located further rearwardly under the rear ski. As such the pivotal connections taught by Porsche et al. will allow the ski to pivot with respect to the frame, about axes defined by the spaced connections 6, and 7/9) to the breadth this limitation is currently claimed. As regards applicant's comments that original figure 3 provides support for this limitation, while the lower ends of both elements 51 and 52 do include pivot element which connect to the ski, in that both 51 and 52 are fixed with respect to one another, it appears as though the ski, and elements 51 and 52 form a truss (i.e., in view of 51 and 52 being rigidly fixed, and the connections between the ski, 51 and 52 being pin-

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connections. For the purpose of this office action, the examiner is assuming that applicant's reference was to another figure, such as figure 5, which appears to allow pivoting.

### Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



Handwritten signature of F. Vanaman, dated 3/1/04.